

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COMLAB, CORP.,

Plaintiff,

17-cv-1907 (PKC)(OTW)

-against-

ORDER ADOPTING REPORT
AND RECOMMENDATION

KAL TIRE and KAL TIRE MINING TIRE
GROUP, a Subsidiary of KAL TIRE,

Defendants.

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CASTEL, U.S.D.J.

On November 30, 2018, defendants filed a motion for attorney's fees and costs, requesting \$250,232.50 in attorney's fees and \$31,278.22 in costs as well as fees associated with making the subject motion. (Doc. 85). This Court referred the motion to Magistrate Judge Ona T. Wang to hear and report. (Doc. 88). On April 18, 2019, Magistrate Judge Wang issued a Report and Recommendation (the "R&R"), recommending that defendants be awarded a total of \$313,138.67 in attorney's fees and costs (\$250,232.50 in attorney's fees and \$31,278.22 in costs incurred defending the action, and \$30,918.50 in fees and \$709.45 in costs incurred in making the instant motion). (Doc. 96).

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The R&R advised the parties that they had 14 days from the service of the R&R to file any objections with the undersigned, citing Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1), and warned that failure to file such objections would result in a waiver of any right to object. (R&R at 13–14). The allotted 14 days have passed, and neither party has filed any objections to

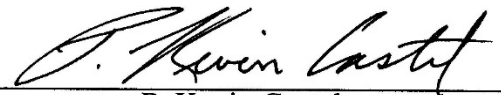
the R&R. The parties received clear notice of the consequences of the failure to object and waived the right to object to the R&R or obtain further judicial review of the magistrate's decision. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002); see also Caidor v. Onondaga Cty., 517 F.3d 601, 604 (2d Cir. 2008).

When clear notice of the consequences of a failure to object has been provided, the Court may adopt an unobjected-to report and recommendation without *de novo* review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."). In such circumstances, "a district court need only satisfy itself that there is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The Court has reviewed Magistrate Judge Wang's thorough and well-reasoned R&R for clear error and has found none. Therefore, the Court adopts the R&R in its entirety.

CONCLUSION

Defendants' motion for attorney's fees and costs (Doc. 85) is GRANTED as set forth in the R&R.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
May 16, 2019